

**REMARKS**

With entry of these amendments, claims 15-23 are pending. Claims 5-13 have been canceled without prejudice since they were withdrawn from consideration, and Applicants reserve the right to prosecute subject matter of the canceled claims in subsequent applications.

Claim 21 has been amended to correct the informality.

Claim 25 has been canceled without prejudice as being a duplicate of claim 23.

No new matter has been added by these amendments.

Claim Objection

Claim 21 was objected to for an informality. The claim has been corrected by amendment, and Applicants respectfully request withdrawal of this objection.

Claim 25 has been canceled as being a duplicate of claim 23.

Rejections Under 103(a)

Claims 15-20, 22, 23 and 25 are rejected under 35 USC § 103(a) as being obvious over Ward et al. (US 5,767,373) in view of Zhao et al.

Claim 21 is rejected under 35 USC § 103(a) as being obvious over Volrath et al. (US 5,939,602) in view of Zhao et al.

The present application was filed after November 29, 1999, and the subject matter of the present invention and US Patent Nos. 5,767,373 and 5,939,602 were commonly owned at the time the invention was made or subject to an obligation to assign.

US Patent No. 5,767,373 was assigned to Ciba Gigy, a predecessor organization to Novartis Corporation, a predecessor to Novartis Finance Corp. which was a predecessor organization to Syngenta Investment Corp. Attached are copies of the assignments.

US Patent No. 5,939,602 was assigned from the inventors to Novartis Finance Corp. which is a predecessor organization to Syngenta Investment Corp. Attached are copies of the assignment.

Obviousness Type Double Patenting Rejections

Claims 15-20, 22, 23 and 25 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 17 of US Patent No. 5,767,373 in view of Zhou et al.

Claim 21 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 17 of US Patent No. 5,939,602 in view of Zhou et al.

A Terminal Disclaimer disclaiming the patent term of the present application over the terms of US Patent Nos. 5,767,373 and 5,939,602 is submitted herewith to overcome these rejections, and Applicants respectfully request their withdrawal.

It is believed that no Extension of Time is required. However, if it is deemed that any other fees are necessary to maintain pendency of this application, then the Office is hereby authorized to charge Deposit Account No. 50-1744 (in the name of Syngenta) for payment of such fees.

Respectfully submitted,

  
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Marked-up Version of Claims as AmendedIN THE CLAIMS:

Please amend the claims to read as follows:

21. (amended) The method of claim 20, wherein [wherein] at least one said template DNA molecule is further characterized in that at least one of the following conditions is met:

- (a) said template DNA molecule has a sequence that encodes amino acid sub-sequence  $AP\Delta_1F$ , wherein  $\Delta_1$  is an amino acid other than arginine;
- (b) said template DNA molecule has a sequence that encodes amino acid sub-sequence  $F\Delta_2S$ , wherein  $\Delta_2$  is an amino acid other than cysteine;
- (c) said template DNA molecule has a sequence that encodes amino acid sub-sequence  $Y\Delta_3G$ , wherein  $\Delta_3$  is an amino acid other than alanine;
- (d) said template DNA molecule has a sequence that encodes amino acid sub-sequence  $A\Delta_4D$ , wherein  $\Delta_4$  is an amino acid other than glycine;
- (e) said template DNA molecule has a sequence that encodes amino acid sub-sequence  $Y\Delta_5P$ , wherein  $\Delta_5$  is an amino acid other than proline;
- (f) said template DNA molecule has a sequence that encodes amino acid sub-sequence  $P\Delta_6A$ , wherein  $\Delta_6$  is an amino acid other than valine;
- (g) said template DNA molecule has a sequence that encodes amino acid sub-sequence  $\Delta_7IG$ , wherein  $\Delta_7$  is an amino acid other than tyrosine;
- (h) said template DNA molecule has a sequence that encodes amino acid sub-sequence  $YIGG\Delta_8$ , wherein  $\Delta_8$  is an amino acid other than alanine or serine;
- (i) said template DNA molecule has a sequence that encodes amino acid sub-sequence  $A\Delta_9P$ , wherein  $\Delta_9$  is an amino acid other than isoleucine;
- (j) said template DNA molecule has a sequence that encodes amino acid sub-sequence  $G\Delta_{10}A$ , wherein  $\Delta_{10}$  is an amino acid other than valine;
- (k) said template DNA molecule has a sequence that encodes amino acid sub-sequence  $Y\Delta_3G$ , wherein  $\Delta_3$  is an amino acid other than alanine, and said template DNA molecule also has a sequence that encodes one of the group consisting of:
  - (1) sub-sequence  $Q\Delta_{11}S$ , wherein  $\Delta_{11}$  is an amino acid other than proline,
  - (2) sub-sequence  $IGG\Delta_{12}$ , wherein  $\Delta_{12}$  is an amino acid other than threonine,

- (3) sub-sequence SWXL $\Delta_{13}$ , wherein  $\Delta_{13}$  is an amino acid other than serine,
  - (4) sub-sequence L $\Delta_{14}$ Y, wherein  $\Delta_{14}$  is an amino acid other than asparagine, and
  - (5) sub-sequence G $\Delta_{15}$ XGL, wherein  $\Delta_{15}$  is an amino acid other than tyrosine;
- (l) said template DNA molecule has a sequence that encodes amino acid sub-sequence  $\Delta_7$ IG, wherein  $\Delta_7$  is an amino acid other than tyrosine, and said template DNA molecule also has a sequence that encodes one of the group consisting of:
- (1) sub-sequence Q $\Delta_{11}$ S, wherein  $\Delta_{11}$  is an amino acid other than proline,
  - (2) sub-sequence IGG $\Delta_{12}$ , wherein  $\Delta_{12}$  is an amino acid other than threonine,
  - (3) sub-sequence SWXL $\Delta_{13}$ , wherein  $\Delta_{13}$  is an amino acid other than serine,
  - (4) sub-sequence L $\Delta_{14}$ Y, wherein  $\Delta_{14}$  is an amino acid other than asparagine, and
  - (5) sub-sequence G $\Delta_{15}$ XGL, wherein  $\Delta_{15}$  is an amino acid other than tyrosine; and
- (m) said template DNA molecule has a sequence that encodes amino acid sub-sequence T $\Delta_{16}$ G, wherein  $\Delta_{16}$  is an amino acid other than leucine, and said template DNA molecule also has a sequence that encodes amino acid sub-sequence YV $\Delta_{17}$ G, wherein  $\Delta_{16}$  is an amino acid other than alanine.

Please cancel claims 5-13 and 25 without prejudice.